



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/259,770	03/01/1999	STEPHEN J. HODGDON	3635-4000	5669

7590 03/20/2003

MORGAN AND FINNEGAN
345 PARK AVENUE
NEW YORK, NY 10154

EXAMINER

PATEL, JAGDISH

ART UNIT	PAPER NUMBER
----------	--------------

3624

DATE MAILED: 03/20/2003

9

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/259,770

Applicant(s)

HODGDON ET AL.

Examiner

JAGDISH N PATEL

Art Unit

3624

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 February 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 90-121 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 97-111 is/are allowed.
- 6) ☒ Claim(s) 90-96, 112-121 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

Art Unit: 3624

DETAILED ACTION

1. This communication is in response to amendment filed 2/25/03.

Response to Amendment

2. Claims 90, 97, 111, 116, 117, and 120 have been amended per request.

3. Claims 90-96 and 112-121 have been rejected on new grounds of rejection not considered in the previous office action and, therefore, the finality of that action is withdrawn.

Response to Arguments

4. Applicant's arguments, filed 3/3/03, with respect to rejection of claims 90-121 under 35 U.S.C. 103(a) over Friend and Bernstein references have been fully considered and are persuasive. The rejections of claims 90-121 have been withdrawn.

5. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Rejections - 35 USC § 101

6. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Art Unit: 3624

7. Claims 90-96, 112-119 and 112-121 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

The invention as recited in the claims is merely an abstract idea that is not within the technological arts. Mere ideas in the abstract (i.e., abstract idea, law of nature, natural phenomena) that do not apply, involve, use, or advance the technological arts fail to promote the "progress of science and the useful arts" (i.e., the physical sciences as opposed to social sciences, for example) and therefore are found to be non-statutory subject matter.

In order to remedy this deficiency, the claims must recite the claimed method as being computer implemented clearly identifying appropriate method steps as such.

Claim Rejections - 35 USC § 103

8. Claims 112-115, 118, 119 and 121 are rejected under 35 U.S.C. 103(a) as being unpatentable over Friend et al. (US Pat. 6,219,650) and further in view of Bengen (Determining Withdrawal Rates Using Historical Data, Journal of Financial Planning, October 1994).

Claim 112: Friend discloses a method comprising:

Art Unit: 3624

obtaining historical data for a plurality of historical periods, the data comprising historical rates of return for a plurality of asset classes and historical rates of inflation (col. 3 L 37-48, historical CPI's and historical market results for stocks, bonds and cash equivalents..);

obtaining for a particular individual a financial portfolio...(col. 3 L 1-15, plan member asset information..percentage of available assets to be allocated to specific asset classes);

Generating a probabilistic distribution of investment outcomes for the financial portfolio on an incremental basis within a designated time period..plurality of projected portfolio values(col. 3, L 37-48 asset cash flow projections are determined using the CPIs and the historical market results for various asset classes);

Friend fails to teach for each of the projected portfolio values, a projected withdrawal amount that corresponds to the desired withdrawal amount adjusted for the historical rate of inflation.

In the same field of endeavor, however, Bengen teaches a method of determining withdrawal rates using historical rate of inflation (p. 171 col. 3 "it pays to look not just at averages, but at what actually has happened, year-by-year to investments

Art Unit: 3624

returns and inflation in the past"). Bengen further discloses projected withdrawal amounts (rates) that corresponds to desired withdrawal amount adjusted for the historical rate of inflation (p. 171 col. 3, "concept of portfolio longevity" through p. 172 col. 2 section titled "The Averages").

It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the method of generating a probabilistic distribution of investment outcomes for the portfolio as recited in the instant claim and as disclosed by Friend as explained above to the method of determining a projected withdrawal amount corresponding to the desired withdrawal amounts as disclosed by Bengen reference. The motivation of such combination would be to provide a reliable tool for projection of withdrawal of a portfolio of assets which meets long terms needs of an individual as discussed Bengen.

Claim 113. the historical data for a plurality of historical periods comprises annual historical rates of return and annual historical rates for each year from 1950 to present (Friend col. 4 L 21-37, both actual rate of return and actual rate of inflation are historical data).

Art Unit: 3624

Claim 114: refer to analysis of claims 92 and 94 as discussed in previous office action (paper #7).

Claim 115: refer to analysis of claims 92 and 93 as discussed in previous office action (paper #7).

Claim 118: refer to claim 91 analyses as discussed in previous office action (paper #7).

Claim 119: asset classes art selected from the group consisting of: U.S. large Cap Stocks.. (Friend col. 4 L 56- col. 5 L 10).

Claim 121: Friend discloses a method for asset management (abstract, future cash flow for a given asset allocation)obtaining data historical rates of inflation for a plurality of historical periods (asset cash flow projections based on historical CPI's col. 3 L 27-48);

obtaining for a particular individual a financial portfolio...(col. 3 L 1-15, plan member asset information..asset classes);

Generating a probabilistic distribution of investment outcomes for the financial portfolio on an incremental basis within a designated time period..plurality of projected portfolio values(col. 3, L 37-48 asset cash flow projections

Art Unit: 3624

are determined using the CPIs and the historical market results for various asset classes);

Whereas, Friend teaches recites steps of obtaining data, obtaining..individual portfolio to be evaluated based on initial investment allocated to at least one of the asset classes, however fails to teach (obtaining) desired withdrawal amount selected from a group consisting of a fixed dollar amount etc. and determining for each portfolio values a projected withdrawal amount as claimed.

Bengen, in the same field of endeavor teaches a method of determining withdrawal rates using historical rate of inflation (p. 171 col. 3 "it pays to look not just at averages, but at what actually has happened, year-by-year to investments returns and inflation in the past"). Bengen further discloses a obtaining a financial portfolio..based on an initial investment allocated to at least one of the asset classes (p. 171 col. 3 - p. 172 col. 1, refer to client with a portfolio consisting of..) and desired withdrawal amount (p. 172 col. 1 "clients could safely withdraw ..or about five percent ..). Bengen also further discloses a projected withdrawal amount that corresponds to the desired withdrawal amount adjusted for the historical rate of return (p. 172, col. 1, ..the client could thus increase their withdrawals each year by three percent, keeping pace with

Art Unit: 3624

inflation..) (Note: this analysis is based on historical rate of inflation as shown on TABLE 1 p. 172).

It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the method of generating a probabilistic distribution of investment outcomes for the portfolio as recited in the instant claim and as disclosed by Friend as explained above to the method of determining a projected withdrawal amount corresponding to the desired withdrawal amounts adjusted for inflation as disclosed by Bengen reference. The motivation of such combination would be to provide a reliable tool for projection of withdrawal of a portfolio of assets which meets long terms financial needs of an individual by providing a systematic withdrawal strategy which would keep pace with inflation.

Allowable Subject Matter

9. Claims 97-111 are allowed.

10. Claims 97-111 are allowed because prior art of record fails to teach or suggest a computer-readable medium or an apparatus for facilitating asset allocation and withdrawal strategy comprising:

Determining, for a projected portfolio value a projected withdrawal amount that corresponds to a preselected desired withdrawal amount by adding

Art Unit: 3624

together a predetermined fixed percentage amount of the projected portfolio value and a predetermined fixed dollar amount.

Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jagdish Patel whose telephone number is (703) 308-7837. The examiner can normally be reached Monday-Thursday from 8:00 AM to 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent Millin, can be reached at (703) 308-1038. The fax number for Formal or Official faxes to Technology Center 3600 is (703) 305-7687. **Draft faxes may be submitted directly to the examiner at (703) 746-5563.**

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-1113 or 308-1114. Address for hand delivery is 2451 Crystal Drive, Crystal Park 5, 7th Floor, Alexandria VA 22202.



Jagdish N. Patel

(Examiner, AU 3624)

March 17, 2003